

SERVICE DATE – LATE RELEASE JUNE 9, 2016

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 6 (Sub-No. 492X)

BNSF RAILWAY COMPANY—ABANDONMENT EXEMPTION—
IN THURSTON COUNTY, WASH.

Decided: June 9, 2016

BNSF Railway Company (BNSF) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon 1.43 miles of rail line between milepost 14.57 and milepost 16.0 in Belmore, Thurston County, Wash. (the Line).¹ Notice of the exemption was served and published in the Federal Register on May 11, 2016 (81 Fed. Reg. 29,316). The exemption is scheduled to become effective on June 10, 2016.²

The Board's Office of Environmental Analysis (OEA) served an environmental assessment (EA) in this proceeding on May 16, 2016, recommending that two environmental conditions be imposed on any decision granting abandonment authority. The environmental conditions would require BNSF to: (1)(a) pursuant to Section 7 of the Endangered Species Act (16 U.S.C. § 1535), consult with OEA and the U.S. Fish and Wildlife Service (USFWS) to determine if the proposed abandonment could adversely impact any federally listed species, candidate species, or designated critical habitats within the project area and, if any such species are located, USFWS may recommend avoidance and impact mitigation measures to develop appropriate mitigation measures, if necessary, and (b) be prohibited from filing its consummation notice or initiating any salvage activities related to abandonment (including removal of tracks

¹ The Line is a portion of a 10.2-mile line of railroad currently being leased to the City of Tacoma, Department of Public Utilities, Beltline Division, d/b/a Tacoma Rail or Tacoma Municipal Beltline or TMBL (TMBL). See City of Tacoma, Dep't of Pub. Utils., Beltline Div. d/b/a Tacoma Rail or Tacoma Mun. Beltline or TMBL—Acquis. & Operation Exemption—Lakeview Subdivision, Quadlok-St. Clair & Belmore—Olympia Rail Lines in Pierce & Thurston Ctys., Wash., FD 34555 (STB served Oct. 19, 2004). In the verified notice, BNSF stated that TMBL would be filing for discontinuance of the Line.

² Although the exemption is scheduled to become effective on June 10, 2016, the abandonment cannot be consummated by BNSF until TMBL obtains discontinuance authority and the Board removes the environmental condition imposed here that is a barrier to consummation. On May 27, 2016, the Board received a request from Thurston County (Public Works) for interim trail use and public use for the Line. BNSF agreed to negotiate for interim trail use in a reply filed on June 2, 2016. The request will be addressed in a separate decision.

and ties) until the Section 7 consultation process has been completed and the Board has removed this condition; and (2)(a) in the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during salvage activities, BNSF shall immediately cease all work and notify OEA and the Washington State Department of Archaeology and Historic Preservation (State Historic Preservation Office or SHPO), pursuant to 36 C.F.R. § 800.13(b), and (b) OEA will then consult with the SHPO, BNSF, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.

OEA issued its final EA on June 3, 2016, noting that no comments to the EA were received by the June 1, 2016 due date and reiterating that the two previously recommended conditions be imposed. Accordingly, the two conditions recommended by OEA in the EA will be imposed.

Based on OEA's recommendation, the proposed abandonment, if implemented as conditioned, will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the notice served and published in the Federal Register on May 11, 2016, exempting the abandonment of the Line described above, is subject to the conditions that BNSF shall: (1)(a) pursuant to Section 7 of the Endangered Species Act (16 U.S.C. § 1535), consult with OEA and the U.S. Fish and Wildlife Service (USFWS) to determine if the proposed abandonment could adversely impact any federally listed species, candidate species, or designated critical habitats within the project area and, if any such species are located, USFWS may recommend avoidance and impact mitigation measures to develop appropriate mitigation measures, if necessary, and (b) be prohibited from filing its consummation notice or initiating any salvage activities related to abandonment (including removal of tracks and ties) until the Section 7 consultation process has been completed and the Board has removed this condition, and (2)(a) in the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during salvage activities, BNSF shall immediately cease all work and notify OEA and the Washington State Department of Archaeology and Historic Preservation (State Historic Preservation Office or SHPO), pursuant to 36 C.F.R. § 800.13(b) and (b) OEA will then consult with the SHPO, BNSF, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.
3. This decision is effective on its date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.